IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

C.R.No. 3869 of 2005

Date of decision : 12.10.2006.

Kidar Nath.

.....Petitioner.

Versus

Sewa Samiti (Regd.) Sewa Samiti Building.

.....Respondent.

CORAM : HON'BLE MR. JUSTICE VINOD K. SHARMA

Present : Mr.Malkiat Singh, Advocate
for the petitioner.

Ms. R.K. Gupta, Advocate
for the respondent.

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VINOD K. SHARMA,J.(ORAL)

This order will dispose of Civil Revision No. 3869 of 2005 titled Kidar Nath Vs. Sewa Samiti (Regd.) Sewa Samiti Building and Civil Revision No.3996 of 2005 titled Dewan Chand Vs. Sewa Samiti (Regd.) Sewa Samiti Building.

The above mentioned revision petitions have been filed by the petitioners, who are tenants of Sewa Samiti against the order of eviction passed by the learned Rent Controller and affirmed by the learned Appellate Authority on the ground of personal necessity.

The respondent-landlord i.e. Sewa Samiti is running a school wherein the petitioners in the above mentioned petitions are the tenants. The eviction petition was filed on the ground of personal need as the school wanted to extend its building to construct the staff rooms.

The learned Courts below on appreciation of evidence came to the conclusion that the need of the petitioner was bona fide and accordingly ordered ejectment of the petitioners. Sh. Malkiat Singh, learned counsel appearing on behalf of the petitioner in civil Revision No. 3869 of 2005 contended that prior to filing the present petition an application under section 4 of the Haryana Urban (Control of Rent & Eviction) Act, 1973 for fixation of fair rent was moved and the said application was allowed and the rent of the disputed shop was enhanced from Rs. 50/- to Rs. 71/-. In view of these circumstances, it was contended that the need of the landlord could not be held to be bona fide.

I have considered the argument raised by the learned counsel for the petitioner and find no force in the same as the present eviction petition was filed almost after two years of passing of order under section 4 of the Act i.e. when it was felt that the tenanted premises are required by the school for construction of the staff rooms.

It was thereafter contended by the learned counsel for the petitioner that the shop in dispute is only 6 ft. x 3-1/2 ft. and, therefore, cannot be used for extension of the building as claimed by the landlord. This contention of the learned counsel for the petitioner also carries no force. Keeping in view the fact that other shop in possession of Sh. Dewan Chand, which adjoins the shop of Sh. Kidar Nath has also been ordered to be evicted. Once the measurement of both the shops is taken it cannot be said that the staff rooms cannot be constructed thereon. The learned Rent Controller as well as the Appellate Authority on appreciation of evidence have come to the positive conclusion that the need of the landlord was bona

fide and ordered the eviction. The finding of fact recorded by the learned authorities below, therefore, does not call for any interference. Accordingly, the present revision petitions being without any merit are dismissed.

The learned counsel for the petitioners submit that the petitioners needs some time to shift their established business from the demised premises. The request of the petitioners is accepted and the petitioners are granted six months time to vacate the premises. However, this would be subject to the conditions :

(i) that the petitioners would file an undertaking in this Court within one month from today, undertaking therein that they would hand over the vacant possession of the respective shops to the respondent-landlord on or before 30.4.2007.

(ii) that the petitioners would clear all the arears of rent till date and continue to pay the future rent in advance by 10th of each month during this period.

October 12,2006 **(VINOD K. SHARMA)**
'sp' **JUDGE**